Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/581,261	KORNFALT ET AL.		
Examiner	Art Unit		
Brent T. O'Hern	1794		

no event, however, will the statulory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: If box 1s checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHING MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.13(s) (a) The date on which the petition under 37 CFR 1.13(s) (a) and the appropriate extension have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension along 37 CFR 1.17(a) is calculated from (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely in reduce any amend patent term adjustment. See 37 CFR 1.74(b). NOTICE OF APPEAL I The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 (m)s, to avoid dismissal of the appeal. S Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS I The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues of appeal; and/or (d) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues of appeal; and/or (d) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues of appeal; and/or present additional claims without canceling a corresponding		Brent T. O'Hern	1794				
1. ☑ The reply was filled after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid bandonners application, applicant must timely file one of the following replies: (1) an amendment, affiliation, application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Rec for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time a priords: a) ☑ The period for reply expires 2 months from the mailing date of the final rejection. b) ☐ The period for reply expires 2. months from the mailing date of the final rejection. Examiner Notice if hox 1 is checked, check either bix (a) to (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN MONTHS OF THE FIRMA REJECTION. See PMEP 706.077. Extensions of time may be obtained under 37 CFR 1.136(a). The date on which he petition under 37 CFR 1.136(a) and the appropriate extension and the corresponding amount of the fee. The appropriate extension and see that the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension and the corresponding amount of the fee. The appropriate extension and the corresponding amount of the fee. The appropriate extension from the place of inchested. Any reply received by the Office later than three months after the mailing date of the final Office action of the final fore of the final office action of the fee for final office action. The Notice of Appeal was filed on	The MAILING DATE of this communication appe	ars on the cover sheet with the c	orrespondence add	ress			
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13. ☑ Other: <u>PTO/892, copy of WO 03/060256</u> . /BTO/ Brent T. O'Hern /Elizabeth M. Cole/ Primary Examiner, Art Unit 1794	11. 🛮 The request for reconsideration has been considered but does NOT place the application in condition for allowance because:						
Brent T. O'Hern Primary Examiner, Art Unit 1794	· · ·	PTO/SB/08) Paper No(s)					
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Continuation of 11. does NOT place the application in condition for allowance because:

As an initial matter, most of Applicant's arguments are not commensurate in scope with the claims as Applicant appears to be arguing the claims have a narrower scope than set forth in the claims.

As can be seen in independent claim 1, the claims just require two panels in the system to be different from each other and for the decorative material to contain materials from the listed group of materials. The text of the claims do not specify how the panels are different but rather that they are different which is always the case with two different panels as they are at least physically different from each other. The materials of construction language are different limitations.

In response to Applicant's request of a translation of Grau ('256) it is noted Grau ('181) is interpreted as the English language equivalent to Grau ('256). The Examiner has included a translation of Grau ('256) which appears to be equivalent to Grau ('181).

In response to Applicant's arguments (See p. 7, para. 2 to p. 9, para. 1 of Applicant's Paper filed 7-8-2009.) that Grau ('256) does not teach claims 1+ because Grau ('256) does not teach two panels having surfaces made from different classes of material, it is noted as discussed above that the claims do not set forth such limitations. If Applicant intends for the surface materials of the panels to each be made from different materials then Applicant is advised to consider setting forth such limitations. Applicant's arguments are not commensurate in scope with the claims. Furthermore, as illustrated in at least FIG-2, the surface materials of abutting panels are made from different materials.

In response to Applicant's arguments (See p. 9, para. 2 to p. 10, para. 1 of Applicant's Paper filed 7-8-2009.) that Hansson ('046) does not teach claims 1+ because Hansson ('046) does not teach two panels having surfaces made from different classes of material, it is noted as discussed above that the claims do not set forth such limitations. If Applicant intends for the surface materials of the panels to each be made from different materials then Applicant is advised to consider setting forth such limitations. Applicant's arguments are not commensurate in scope with the claims. Furthermore, as made of record Hansson ('046) teaches the panels covered with a map with each piece of the map including a different piece of the map, thus each panel has a different decoration.

In response to Applicant's arguments (See p. 10, paras. 2-4 of Applicant's Paper filed 7-8-2009.) that Sjoberg ('812) does not teach claims 1+ because Sjoberg ('812) does not teach two panels having surfaces made from different classes of material, it is noted as discussed above that the claims do not set forth such limitations. If Applicant intends for the surface materials of the panels to each be made from different materials then Applicant is advised to consider setting forth such limitations. Applicant's arguments are not commensurate in scope with the claims.

In response to Applicant's arguments (See p. 10, para. 5 to p. 11, para. 1 of Applicant's Paper filed 7-8-2009.) that Martensson ('547) and Sjoberg ('812) do not teach claims 1+ because said references do not teach two panels having surfaces made from different classes of material, it is noted as discussed above that the claims do not set forth such limitations. If Applicant intends for the surface materials of the panels to each be made from different materials then Applicant is advised to consider setting forth such limitations. Applicant's arguments are not commensurate in scope with the claims.

In response to Applicant's arguments (See p. 7, para. 2 to p. 9, para. 1 of Applicant's Paper filed 7-8-2009.) that Grau ('256) and Hansson ('046) do not teach claims 4-9 and 11 because said references do not teach two panels having surfaces made from different classes of material, it is noted as discussed above that the claims do not set forth such limitations. If Applicant intends for the surface materials of the panels to each be made from different materials then Applicant is advised to consider setting forth such limitations. Applicant's arguments are not commensurate in scope with the claims.

In response to Applicant's arguments (See p. 11, para. 3 to p. 13, para. 1 of Applicant's Paper filed 7-8-2009.) that Grau ('256) and Sjoberg ('812) do not teach claims 14 and 15 because there is no reason to combine said references because Grau ('256) does not teach an elastomer foil that comprises a thermoplastic elastomer and Sjoberg's ('812) foil is not on decorative surface, it is noted as discussed above that Grau ('256) teaches the surfaces made of many different materials and Sjoberg ('812) teaches panels made of thermoplastic elastomers that are resistant to abrasion, chemicals and sound (See p. 2, II. 15-22.). The sound and chemical resistant properties are important throughout the panel.

Thus, there is reason to combine the references as made of record.

In response to Applicant's arguments (See p. 13, paras. 3-6 of Applicant's Paper filed 7-8-2009.) that since Bettinger ('237) does not teach the joining means per claim 1 it can not be teach the carpet limitations per claim 17, it is noted that Bettinger ('237) is not cited for teaching the joining means. Furthermore, the joining means in claim 1 is very broad and generic..

/BTO/ Brent T. O'Hern Examiner, Art Unit: 1794